



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 20, 2021

By Electronic Filing and Overnight Delivery

Scott Harris, Clerk of the Court
Supreme Court of the United States
Office of the Clerk
1 First Street, N.E.
Washington, D.C. 20543

Re: *Eric DeWayne Cathey v. Texas*, No. 21-466

Dear Mr. Harris:

A responsive brief in this death penalty case is due October 28, 2021. Respondent respectfully requests a forty-day extension of the present deadline, up to and including December 7, 2021. This is counsel for Respondent's first request for an extension in this case. The extension request is not sought for an improper purpose, including harassment or unnecessary delay. Rather, counsel requires additional time because he was not counsel for Respondent in the court below and only recently received a copy of the records from the most recent state court proceedings. Additionally, counsel has recently filed briefs in *Ayestas v. Lumpkin*, No. 4:09-CV-2999 (S.D. Tex. Oct. 12, 2021), and *Gamboa v. Lumpkin*, No. 16-70023 (5th Cir. Sept. 24, 2021), and served as lead counsel in litigation prior to the execution of Rick Rhoades. *E.g.*, Br. in Opp., *Rhoades v. Martinez*, No. 21A43 (Sept. 28, 2021). Counsel must also devote a significant amount of time to his supervisory duties within his division. Consequently, counsel has been unable to complete his review of the records and to draft a responsive brief in the instant case, and additional time is needed to do so. Moreover, counsel's office will be closed November 24 through November 26, 2021, for the Thanksgiving holiday. The undersigned conferred with Petitioner's counsel who stated he is not opposed to this requested extension. Thank you for your consideration.

Respectfully submitted,

s/ Jefferson Clendenin
JEFFERSON CLENDENIN
Assistant Attorney General

cc: Layne Kruse
layne.kruse@nortonrosefulbright.com